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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,472	10/08/2003	Craig A. Urman	FLAPA.001CPI	7873
20995	7590	10/23/2006		EXAMINER
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			HYLTON, ROBIN ANNENETTE	
			ART UNIT	PAPER NUMBER
				3781

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/681,472	URMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Robin A. Hylton	3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 09 August 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 20-39 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 20-30, 34, 35 and 39 is/are rejected.

7)  Claim(s) 31-33 and 36-38 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 09 August 2006 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_ .  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_ . 5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_ .

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 9, 2006 has been entered.

### ***Drawings***

2. The drawings were received on August 9, 2006. These drawings are approved in part. Replacement sheets 1 and 4 are approved, while replacement sheets 2 and 3 are not. Replacement drawing figure 4 eliminates the handle and figure 5 inserts lines purported to represent the handle. These figures are not approved as they are not supported by the original disclosure.

### ***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "first, second, and third layers".

### ***Claim Rejections - 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 20-22,29, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Schneider et al. (US 3,224,640). The third layer has an aperture in the form of a slit which provides access to a pocket space.

6. Claims 20-23,26, and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Huseman et al. (US 6,012,844). See figures 3 and 4 depicting the folded rear edge of the first and second layers and the aperture in the third layer defined by openings 34 and 40.

7. Claims 20-23,29, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Close (US 3,979,051). The rear and elongate side edges of the layers are attached by at least their proximity to each as seen in figures 2 and 3.

***Claim Rejections - 35 USC § 103***

8. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Close in view of Krueger (US 3,558,040).

Close discloses the claimed packaging system except for a flap extending from the first layer.

Krueger teaches it is known to provide a packaging system with a flap extending from the first layer for closing the opening edge of the packaging.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a flap to the first layer of the packaging system of Close as taught by Krueger. Doing so allows for closing the open edge of the packaging system to retain the contents therein until desired removal.

9. Claim 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huseman.

Huseman discloses the claimed bag except for the bag having a folded side edge.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the bag with a folded side edge instead of a folded end since the examiner takes Official Notice of the equivalence of end-to-end connections and side-to-side connections for

their use in the bag art and the selection of any of these known equivalents to form a continuous chain of bags would be within the level of ordinary skill in the art.

10. Claims 34,35 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huseman in view of Vaquero (US 5,709,641).

Huseman discloses the claimed bag including flap **28** except for multiple folds forming the edges between the layers.

Vaquero teaches it is known to form a bag via multiple folds.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of multiple folds to the bag of Huseman. Doing so provides a more efficient and expedient process for forming the bag.

Regarding the size of the bag and compartments, it would have been an obvious matter of design choice to form the bag compartments of a size to house a pizza and napkins, respectively, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

#### ***Allowable Subject Matter***

11. Claims 31-33 and 36-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

12. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

13. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F.R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

15. In order to reduce pendency and avoid potential delays, Group 3720/80 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

16. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

Art Unit: 3781

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_  
Signature\_\_\_\_\_

Date\_\_\_\_\_

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

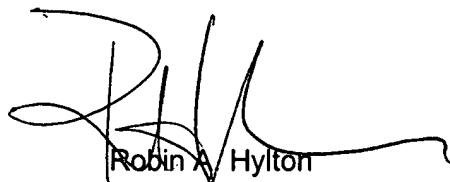
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick, can be reached on (571) 272-4561.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH  
October 11, 2006



Robin A. Hylton  
Primary Examiner  
GAU 3781



1/4

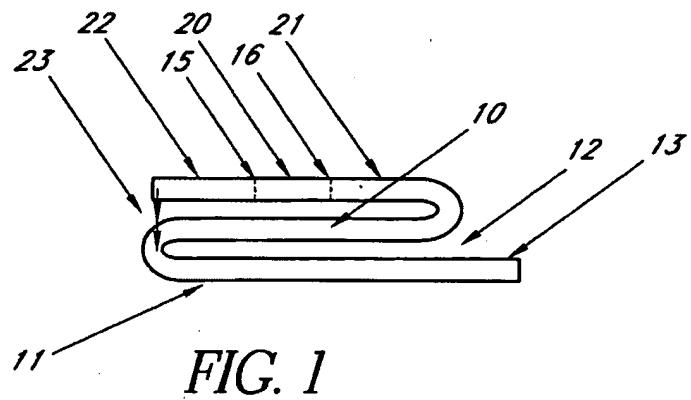


FIG. 1

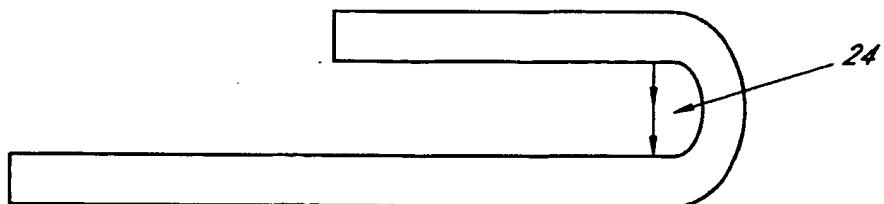


FIG. 2

2/4

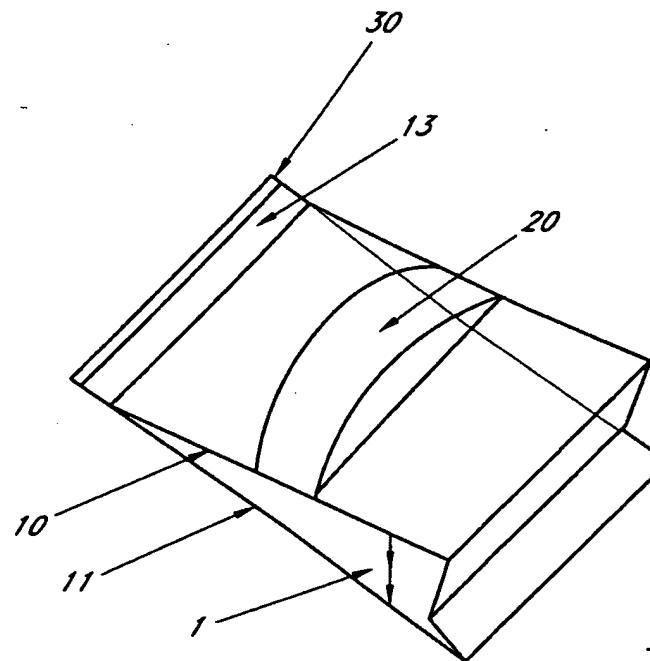


FIG. 3

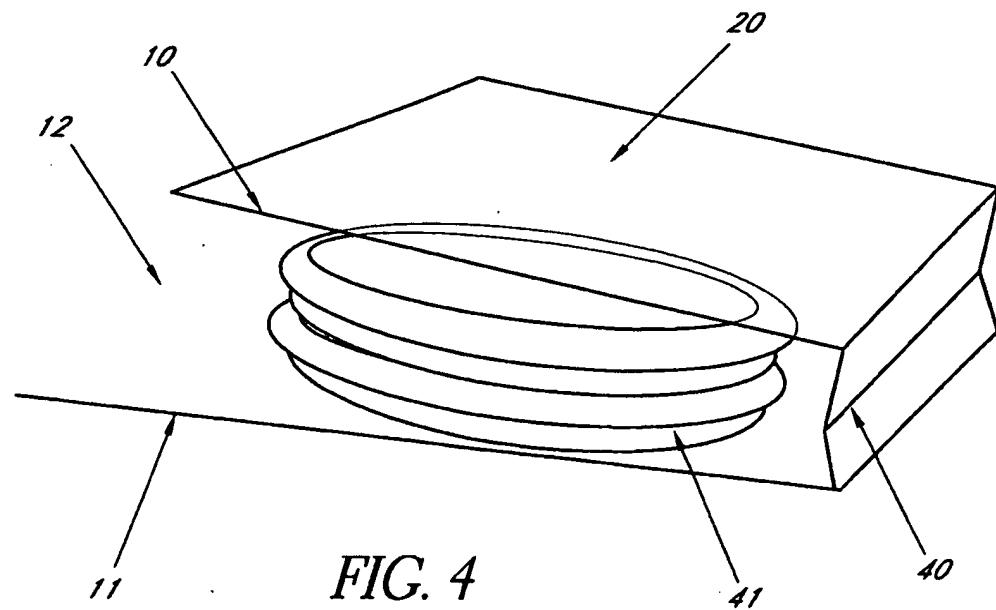


FIG. 4

3/4

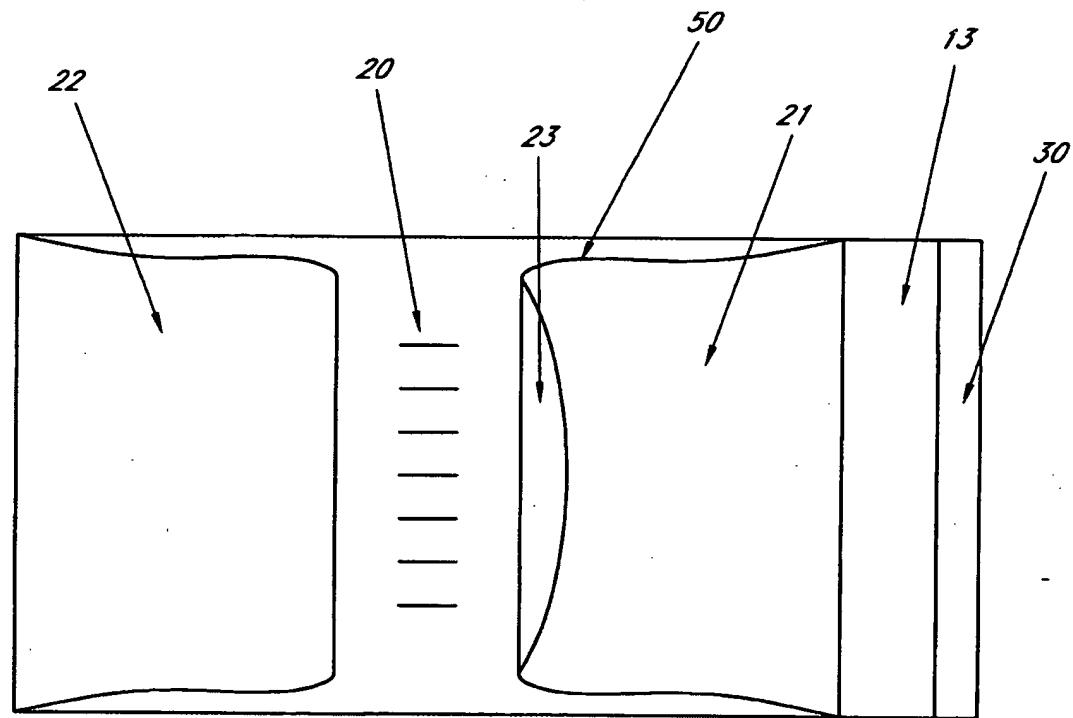


FIG. 5

4/4

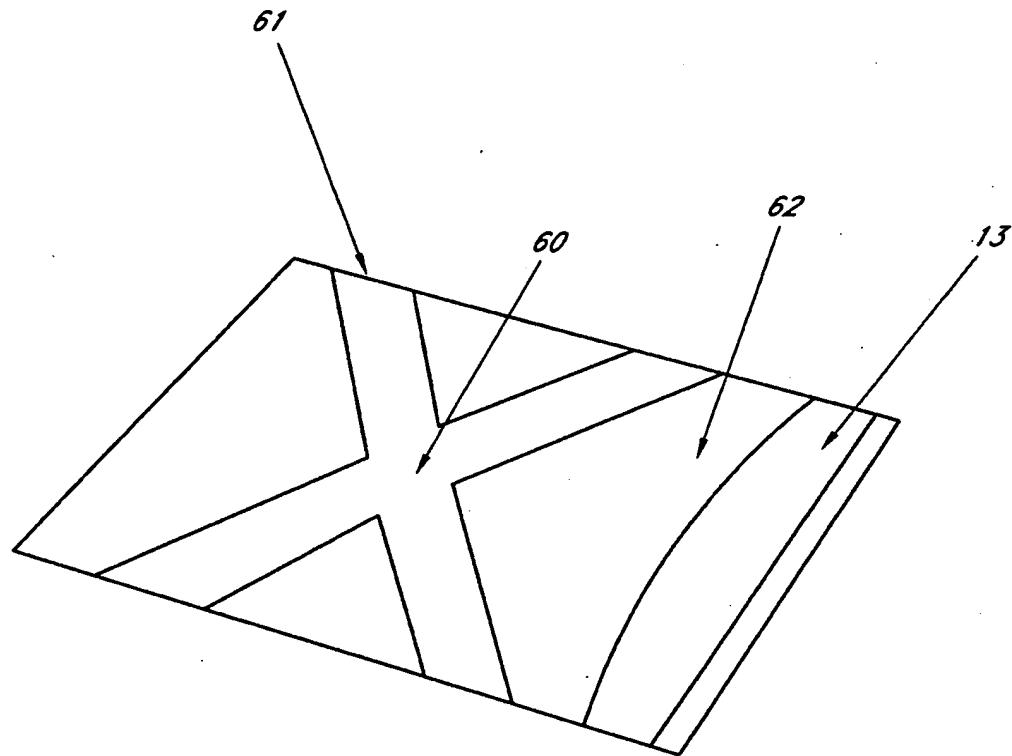


FIG. 6